

CMRS BOARD MEETING MINUTES

July 22, 2004

CMRS BOARD OFFICE

21 Millcreek Park

Frankfort, KY

Board Members Present: David Lucas, Dee Hopper, Richard Guittar, Forest Skaggs, Rob South, Laura Phipps, Major Sonny Cease,

Staff Present: Rodney Murphy, (acting administrator), Jennifer Jackson (staff), Tandy Simpson (summer intern)

- I. Laura Phipps, Chairperson called the meeting to order at 1:16 p.m. Major Sonny Cease introduced guests Commissioner Mark Miller, Sgt. John Bradley, and Rory Cunningham from the Kentucky State Police.
- II. Minutes from the May 27, 2004 meeting were reviewed. Dee Hopper made a motion to approve the minutes, Rob South seconded and all were in favor.
- III. Forrest Skaggs reported that the PSAP Certification Committee had not met since the May 27th meeting and had no report.
- IV. Richard Guittar reported that the Cost Recovery Committee had met earlier in the morning. He stated that the committee had received an amended cost recovery plan from Cingular Wireless. Cingular is interested in changing their billing format. Richard reported the committee still has some questions regarding the portion of the plan for the Northern Kentucky area and that he and Jennifer Jackson would meet with Cingular to discuss this matter.

The committee again discussed the issue regarding payment to AT&T above the 125% of remittances received. The cost recovery fund currently has more than \$13.7 million. Currently the statute allows payment in excess of 125% of the carrier's total remittance only with prior board approval. Richard made a motion to make payment of invoices in excess of 125% of carrier's remittance so long as the fund is solvent and upon board approval. Should the funds be short, the board would then decide what to do. Dee Hopper seconded the motion. After a lengthy discussion, Richard withdrew the motion.

Richard then made a motion to pay AT&T Wireless \$1,297,354.05, which is in excess of 125% of their total remittance. Forest seconded the motion. David Lucas noted that he is opposed and stated technical reasons. Laura Phipps, Dee Hopper and Sonny Cease voted yes, David Lucas voted no, and Richard Guittar and Rob South abstained.

As there was some disagreement as to whether the vote carried, Rodney Murphy asked Ken Mitchell to contact Dodd Harris, COT General Counsel to make a determination based on Roberts Rules of Order. Ken Mitchell returned from his discussion with COT General Council and reported that according to Roberts Rules of Order, there should be a re-polling by secret ballot of the vote. Blank ballots would not be counted in the total and would not be considered in the majority. Laura Phipps, ordered the re-polling, David again stated his opposition, and the vote yielded 4 yes votes, 1 no vote, and 1 blank. The motion carried.

V. Richard Guittar noted that the board has received and reviewed invoices from Bluegrass, AT&T, Cingular, Sprint, and Alltel in the amount of \$614,721.00. Richard made a motion for the invoices to be paid. Forest Skaggs seconded the motion. All were in favor.

VI. David Lucas made a motion for the Phase II Committee to merge with the PSAP Certification Committee. Dee Hopper seconded. All were in favor and the Phase II Committee was dissolved.

David reported that 56 Phase II Certification packets had been received thus far, with 28 still outstanding. Forest Skaggs volunteered to draft a letter for Laura Phipps to be sent out to the counties who have not submitted their Phase II Certification packet.

VII The Personnel Committee report was postponed to the end of the meeting.

VIII. Jennifer Jackson reported that the financial statements that are in the packet are the FY '04 year-end reports. She noted that the total fund balance is \$16,904,632.42. Jennifer further stated that the growth in subscribers for the past year was approximately 7%, which does show a slowing growth.

IX. Rodney Murphy gave an update regarding the BellSouth Interconnect Project. He reported that BellSouth's implementation of a software transfer resulted in problems, thus sending them back to square one with the original proposal. Rodney said that he would work with BellSouth in efforts to develop a new contract.

Rodney reported that he consulted legal council before requesting an Attorney General's opinion regarding the prepaid issue and was advised not to seek the opinion at this time. There was much discussion regarding amending the regulation and statute that refer to remittance of the CMRS surcharge. Rodney said that he would once again draft language and submit to the board for review. Ken Mitchell will review all of the CMRS statutes and regulations for references to "monthly billing" for possible amendments.

Rodney Murphy stated that the GIS position that was previously approved by the board might be a problem, as he doesn't think he can get a position because of current hiring freeze within COT. He will explore other options for the board to accomplish the tasks that were to be handled by this position.

Rodney discussed some options for accomplishing the GIS work that the board needs to have completed. He will look into options such as a temporary contract or MOA with other state agencies.

Rodney discussed the organizational placement of the Board, and listened to the board member's thoughts regarding attachment to the Office of Homeland Security. He said that the biggest change would be that the administrator would simply report to the Head of Homeland Security. Many board members expressed concern for the protection of CMRS funds in that they should only be used for wireless 911 purposes, regardless of the Board's affiliation.

Rodney and Ken Mitchell presented proposed changes to the Cost Recovery Regulation. Changes were as follows: Section 3 (6) delete "The method by which the carrier will identify the persons authorized to submit sworn paid invoices to the board for reimbursement", and replace it with "The carrier must identify name(s) and office of the individual(s) who is

authorized by the carrier to submit sworn paid invoices to the board for reimbursement. Section 8 (2) (p) would be changed to (q) and insert a new (p) to read “Costs for complying with CMRS audit”. Section 8 add (3) to read “Submission of costs for activities that occurred more than 24 months prior to submission of an invoice by the carrier to the CMRS board shall not be reimbursed. David Lucas made a motion to accept the changes. Major Sonny Cease seconded. All were in favor.

Rodney presented a Code of Ethics for the CMRS Board to review. He reported that the formal adoption of a Code of Ethics by December 31st, 2004 would result in the Board being honored as a “Leader in Ethics”. Forest Skaggs asked if a Code of Ethics adopted by the Board would differ from the current legislative Code of Ethics. Rob South and Laura Phipps asked to delay the discussion of the topic until they confer with their company’s legal counsel.

Rodney introduced Tandy Simpson, a summer intern who has been working for the board office and asked the board to approve a part-time position to keep her employed after the seasonal employment ends. Discussion regarding this position was deferred for a closed session.

Ken Mitchell reported that website revisions were still in progress. The new website is located at www.cmrsboard.ky.gov. Rob South made a motion to add the CMRS Board member names to the website. Richard Guittar seconded. All were in favor.

- X. David Lucas made a motion to go into a closed session to discuss personnel issues regarding candidates for the administrator position and the possible creation of the part-time clerical position.

At 5:05 the closed session ended. Dee Hopper made a motion to allow Rodney to pursue the creation of a part-time clerical position, Forest Skaggs seconded the motion, and all were in favor.

Next board meeting was set for August 19th at the CMRS Board office at 1:00PM.

Rob South made a motion to adjourn at 5:10, Dee Hopper seconded.